

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

EVOLVED WIRELESS, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Case No. _____
APPLE, INC.,	)	
	)	<b>JURY TRIAL DEMANDED</b>
Defendant.	)	
	)	
	)	

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Evolved Wireless, LLC (“Evolved Wireless”), for its causes of action against Defendant Apple, Inc. (“Apple”), states and alleges on knowledge and information and belief as follows:

**PARTIES**

1. Plaintiff Evolved Wireless is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business at 805 Las Cimas Parkway, Suite 240, Austin, Texas 78746.
2. On information and belief, Defendant Apple, Inc. is a California corporation with its principal place of business at 1 Infinite Loop, Cupertino, California 95014.

**JURISDICTION**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), in that this action arises under the federal patent statutes, 35 U.S.C. §§ 271 and 281-285.

4. This Court has personal jurisdiction over Apple. Upon information and belief, Apple has committed and continues to commit acts giving rise to this action within Delaware and within this judicial district and Apple has established minimum contacts within the forum such that the exercise of jurisdiction over Apple would not offend traditional notions of fair play and substantial justice. For example, Apple has committed and continues to commit acts of infringement in this District, by among other things, offering to sell and selling products that infringe Evolved Wireless's LTE Patent Portfolio, as defined below, including smartphones, tablets, and other mobile devices. In conducting its business in Delaware and this judicial district, Apple derives substantial revenue from infringing products being sold, used, imported, and/or offered for sale or providing service and support to Apple's customers in Delaware and this District, and will continue to do so unless enjoined by this Court.

#### **VENUE**

5. Venue in the District of Delaware is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because Apple has committed acts within this judicial district giving rise to this action, and Apple has and continues to conduct business in this judicial district, including one or more acts of selling, using, importing, and/or offering for sale infringing products or providing service and support to Apple's customers in this District.

6. Venue in the District of Delaware is further proper because Evolved Wireless is incorporated in the state of Delaware.

#### **BACKGROUND**

7. The Third Generation Partnership Project ("3GPP") develops standards for globally-applicable commercial cellular systems. The Organizational Partners of 3GPP are major telecommunications standards developing organizations from around the world, including the

European Telecommunications Standards Institute (“ETSI”), the North American Alliance for Telecommunication Industry Solutions, the Telecommunications Technology Association of Korea, and a few others. Companies participate in 3GPP via their membership in one of the Organizational Partners. Apple and LG Electronics, Inc. are members of at least one Organizational Partner, either directly or through their subsidiaries.

8. Global standards establish precise specifications for the essential components of telecommunications systems and are fundamental in allowing products and services from unrelated competitors to be compatible and operate seamlessly with a telecommunications network.

9. The 3GPP standards for cellular wireless communications are known as Releases. Release 8 describes the first version of the Long Term Evolution (“LTE”) standard. The LTE standard network includes Evolved Universal Terrestrial Access Network (“E-UTRAN”) and a Core Network called Evolved Packet Core.

10. Each Release consists of a series of technical specifications (“TS”). The 3GPP 36 series of technical specifications covers the E-UTRAN, including at least TS 36.211, .300, .321, .331, and .423. Starting with Release 8, LTE has been commercially available in the United States since around 2010.

11. Developing these standards is an iterative process in which industry players compete to find novel solutions to the standard’s technical challenges and goals, including increased data rates and throughput, reduced latency, and higher reliability. The member companies participate in 3GPP Working Groups to discuss, vote, and select the most appropriate technology among competing proposals to provide each individual function within the standard. Therefore, technologies patented by the members become part of the 3GPP standards.

12. 3GPP participants must abide by the intellectual property rights (“IPR”) policy of the Organizational Partners to which they belong. These IPR policies, such as the ETSI IPR policy, are intended to strike “a balance between the needs of standardization for public use in the field of telecommunications and the rights of the owners of IPRs.”<sup>1</sup> “IPR holders whether members of ETSI and their AFFILIATES or third parties, should be adequately and fairly rewarded for the use of their IPRs in the implementation of STANDARDS and TECHNICAL SPECIFICATIONS.”<sup>2</sup>

13. 3GPP participants are required to disclose intellectual property (including patents and patent applications) owned by them which they believe are or are likely to become essential, or might be essential, to any 3GPP standard, including LTE. Companies are also required by IPR policies to license their intellectual property on terms that are fair, reasonable, and non-discriminatory (“FRAND”).<sup>3</sup> These policies bind all successors-in-interest to license essential intellectual property on FRAND terms.<sup>4</sup>

### **EVOLVED WIRELESS**

14. Evolved Wireless restates and realleges each of the allegations set forth above and incorporates them herein.

15. Evolved Wireless owns, through assignments originating with LG Electronics, Inc. (“LG”), a standard-essential patent portfolio relating to LTE wireless communication systems. The portfolio, which includes United States Patent Nos. 7,746,916, 7,768,965, 7,809,373, 7,881,236, and 8,218,481 (collectively referred to herein as “LTE Patent Portfolio”),

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<sup>1</sup> ETSI Rules of Procedure, Annex 6: ETSI Intellectual Property Rights Policy § 3.1 (2014), available at <http://www.etsi.org/images/files/IPR/etsi-ipr-policy.pdf>.

<sup>2</sup> *Id.* § 3.2.

<sup>3</sup> *Id.* § 6.1.

<sup>4</sup> *Id.* § 6.1bis.

is essential to the 3GPP 36 Series technical specifications, including at least TS 36.211, .300, .321, .331, and .423.

16. As an ETSI member, LG extensively participated in 3GPP Working Group meetings to develop the LTE standards. LG submitted numerous proposals for incorporation into the standards, and LG's research and development efforts solved significant technical challenges facing the standards. The LTE Patent Portfolio claims several of LG's technical solutions that solve technical challenges in wireless telecommunications technology.

17. Evolved Wireless continues to innovate and contribute additional inventions to the LTE wireless communication system.

### **OVERVIEW OF MOBILE TELECOMMUNICATIONS**

18. Mobile (cellular) phones and devices allow users to make or receive telephone calls and transmit and receive data wirelessly over a wide geographical area.

19. Around 1980, first generation ("1G") mobile phones were introduced to the public. These phones used analog modulation techniques, specifically frequency division multiple access, to transmit voice calls.

20. In the 1990s, second generation ("2G") phones emerged. These phones used digital technology, which permitted more efficient use of the radio spectrum than their 1G predecessor. While second generation systems were originally designed only for voice, they were later enhanced to include data transmission, but could only achieve low data rates.

21. During the same time period of growth for 2G communications systems, overall use of the Internet also increased. In response to user demand for higher data rates, third generation ("3G") phones emerged.

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